

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN ASSEMBLY AUGUST 9, 2010

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 13, 2010

## SENATE BILL

**No. 1240**

---

### Introduced by Senator Corbett

February 19, 2010

---

An act to *amend Section 32126 of, and to add Section 32121.6 to,* the Health and Safety Code, relating to local health care districts.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1240, as amended, Corbett. Local health care districts: operation of facility by another entity.

Existing law, the Local Health Care District Law, provides for the formation of local health care districts and, until January 1, 2011, authorizes each local district to transfer, at fair market value, any part of its assets to one or more corporations to operate and maintain the assets. ~~After Commencing January 1, 2011, existing law changes that provision to restrict, instead, restricts~~ these transfers only to nonprofit corporations.

This bill would, notwithstanding any provision of law, require, with certain exceptions, when a district is under contract with a public or private entity to operate a district facility, the district and the public or private entity that operates the district facility to (1) ~~preclude assets, including, but not limited to, all revenue generated by the district facility, from being used for the benefit of any person or entity other than a hospital within the jurisdiction of~~ *require that assets of any facility within the geographic boundaries of the district and owned by the*

*district be used exclusively for the benefit of a facility owned by the district, except as specified, (2) require the hospital and the operating entity to annually undergo an independent financial audit and that the resulting report be made public, and (3) preclude, in the case of a subsequent sale of the facility or any assets of the district to the operating entity, any losses incurred by the entity in the operation of the facility from being used as a credit against the purchase price of the facility or other district assets.* ~~By~~

*Existing law permits a health care district board of directors to provide for the operation and maintenance through tenants of the whole or any part of a hospital acquired or constructed by it, and for that purpose may enter into a lease agreement that it believes will best serve the interest of the district.*

*This bill would, instead, permit those lease agreements only to the extent that the agreement does not provide benefits to the tenants beyond those reasonably necessary to ensure the operation of the hospital for the benefit of the district and allow the tenant to recoup its capital investments made during the lease agreement.*

*By requiring that districts comply with these requirements, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.*

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 32121.6 is added to the Health and Safety
- 2 Code, to read:
- 3 32121.6. (a) Notwithstanding any provision of law, when a
- 4 district is under contract with another public or private entity to
- 5 operate one or more of its health facilities, the district and the
- 6 public or private entity that operates the district facility shall
- 7 comply with all of the following requirements:
- 8 ~~(1) No assets of the district, including, but not limited to, all~~
- 9 ~~revenue generated by the district facility or facilities being operated~~

1 ~~by the other entity shall be used for the benefit of any person or~~  
2 ~~entity other than a hospital within the jurisdiction of the district.~~

3 (1) *Except as authorized by Section 32126, assets of any facility*  
4 *owned by the district, including, but not limited to, all revenues*  
5 *from the sale or investment of any asset of the facility and all net*  
6 *operating income, shall be used exclusively for the benefit of a*  
7 *facility within the geographic boundaries of the district and owned*  
8 *by the district.*

9 (2) The hospital and the operating entity shall annually undergo  
10 an independent financial audit and the resulting report shall be  
11 made public by the district.

12 (3) (A) In the case of a subsequent sale of the hospital facility  
13 or any other assets of the district to the operating entity, any losses  
14 incurred by the entity in the operation of the facility shall not be  
15 used as a credit against the purchase price of the facility or other  
16 district assets.

17 (B) This paragraph does not apply to a sale of a hospital facility  
18 that is otherwise in compliance with paragraph (1) of subdivision  
19 (p) of Section 32121.

20 (b) Subdivision (a) does not apply to a local health care district  
21 and a nonprofit corporation that meet all of the following criteria:

22 (1) The district has a contract with the tax-exempt nonprofit  
23 corporation, qualified under Section 501(c)(3) of the Internal  
24 Revenue Code.

25 (2) The nonprofit corporation operates one or more general  
26 acute care hospitals, as defined in subdivision (a) of Section 1250,  
27 that are the subject of the contract.

28 (3) The general acute care hospital or hospitals that are operated  
29 by the nonprofit corporation are owned by the district.

30 (4) The district is the nonprofit corporation's sole corporate  
31 member.

32 *SEC. 2. Section 32126 of the Health and Safety Code, as added*  
33 *by Section 5 of Chapter 194 of the Statutes of 2005, is amended*  
34 *to read:*

35 32126. (a) The board of directors may provide for the operation  
36 and maintenance through tenants of the whole or any part of any  
37 hospital acquired or constructed by it pursuant to this division, and  
38 for that purpose may enter into any lease agreement that it believes  
39 will best serve the interest of the district, *only to the extent that*  
40 *the agreement does not provide benefits to the tenants beyond*

1 *those reasonably necessary to ensure the operation of the hospital*  
2 *for the benefit of the district and allows the tenant to recoup its*  
3 *capital investments made during the lease agreement.* A lease  
4 entered into with one or more nonprofit corporations for the  
5 operation of 50 percent or more of the district's hospital, or that  
6 is part of, or contingent upon, a transfer of 50 percent or more of  
7 the district's assets, in sum or by increment, as described in  
8 subdivision (p) of Section 32121, shall be subject to the  
9 requirements of subdivision (p) of Section 32121. Any lease for  
10 the operation of any hospital shall require the tenant or lessee to  
11 conform to, and abide by, Section 32128. No lease for the operation  
12 of an entire hospital shall run for a term in excess of 30 years. No  
13 lease for the operation of less than an entire hospital shall run for  
14 a term in excess of 10 years.

15 (b) Notwithstanding any other provision of law, a sublease, an  
16 assignment of an existing lease, or the release of a tenant or lessee  
17 from obligations under an existing lease in connection with an  
18 assignment of an existing lease shall not be subject to the  
19 requirements of subdivision (p) of Section 32121 so long as all of  
20 the following conditions are met:

21 (1) The sublease or assignment of the existing lease otherwise  
22 remains in compliance with subdivision (a).

23 (2) The district board determines that the total consideration  
24 that the district shall receive following the assignment or sublease,  
25 or as a result thereof, taking into account all monetary and other  
26 tangible and intangible consideration to be received by the district,  
27 including, without limitation, all benefits to the communities served  
28 by the district, is no less than the total consideration that the district  
29 would have received under the existing lease.

30 (3) The existing lease was entered into on or before July 1, 1984,  
31 upon approval of the board of directors following solicitation and  
32 review of no less than five offers from prospective tenants.

33 (4) If substantial amendments are made to an existing lease in  
34 connection with the sublease or assignment of that existing lease,  
35 the amendments shall be fully discussed in advance of the district  
36 board's decision to adopt the amendments in at least two properly  
37 noticed open and public meetings in compliance with Section  
38 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with  
39 Section 54950) of Part 1 of Division 2 of Title 5 of the Government  
40 Code).

1 (c) A health care district shall report to the Attorney General  
2 within 30 days of any lease of district assets to one or more  
3 nonprofit corporations, the type of transaction and the entity to  
4 whom the assets were leased.

5 (d) This section shall become operative on January 1, 2011.

6 ~~SEC. 2.~~

7 *SEC. 3.* No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 a local agency or school district has the authority to levy service  
10 charges, fees, or assessments sufficient to pay for the program or  
11 level of service mandated by this act, within the meaning of Section  
12 17556 of the Government Code.